

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DERRICK LAMONT PRINCE, No. C 08-4889 MHP (pr)  
Petitioner, **ORDER OF DISMISSAL**  
v.  
M. CRAMER, Warden,  
Respondent.

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This action was commenced when Derrick Lamont Prince filed a petition for writ of habeas corpus to challenge his 1983 conviction from the San Francisco County Superior Court. This is not Prince's first petition challenging his 1983 conviction. He also challenged it in an action filed in 1998, Prince v. Hickman, No. C 98-913 MHP. That petition was ultimately denied on the merits in 2002. This court and the Ninth Circuit both denied a certificate of appealability for Prince.

A second or successive petition may not be filed in this court unless the petitioner first obtains from the United States Court of Appeals for the Ninth Circuit an order authorizing this court to consider the petition. 28 U.S.C. § 2244(b)(3)(A).

Prince has not obtained the necessary order from the Ninth Circuit permitting him to file a second or successive petition. This court will not entertain a new petition from Prince until he first obtains permission from the Ninth Circuit to file such a petition. This action is DISMISSED without prejudice to Prince filing a petition in this court after he obtains the necessary order from the Ninth Circuit.

1 If Prince wants to attempt to obtain the necessary order from the Ninth Circuit, he  
2 should very clearly mark the first page of his document as a "MOTION FOR ORDER  
3 AUTHORIZING DISTRICT COURT TO CONSIDER SECOND OR SUCCESSIVE  
4 PETITION PURSUANT TO 28 U.S.C. § 2244(b)(3)(A)" rather than labeling it as a habeas  
5 petition because the Ninth Circuit clerk's office is apt to simply forward to this court any  
6 document labeled as a habeas petition. He also should mail the motion to the Ninth Circuit  
7 (at 95 Seventh Street, San Francisco, CA 94103), rather than to this court. In his motion to  
8 the Ninth Circuit, he should explain how he meets the requirements of 28 U.S.C. § 2244(b).

Prince's in forma pauperis application is DENIED. (Docket # 3.)

10 The clerk shall close the file.

IT IS SO ORDERED.

12 || DATED: December 18, 2008

  
Marilyn Hall Patel  
United States District Judge

# United States District Court

For the Northern District of California